



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

August 20, 1993

Honorable Allen Hightower
Chair
Committee on Corrections
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Letter Opinion No. 93-64

Re: Whether the Student Service Fee
Advisory Committee of Sam Houston State
University is subject to the Open Meetings
Act (ID# 20936)

Dear Representative Hightower:

You ask whether the Student Service Fee Advisory Committee (the "committee") of Sam Houston State University is subject to the Open Meetings Act (the "act"), V.T.C.S. article 6252-17. If we find that the committee is subject to the act, you ask whether recommendations made during a closed meeting are considered null and void.

We understand that the committee is composed of student and faculty representatives and is chaired by the Dean of Student Life. The committee considers proposals submitted by various student organizations regarding requests for funding for the next academic year. The committee then recommends to the Vice President for Academic Affairs and Student Services the allocation of funds to the student organizations. The recommendations are then further considered by the president of the university with final approval by the Board of Regents. The issue of the applicability of the Open Meetings Act arises with regard to the meetings at which the committee deliberates on its recommendations to the Board of Regents.

Every meeting of a "governmental body" is subject to the Open Meetings Act. Section 1(c) of the act provides in part:

(c) 'Governmental body' means any board, commission, department, committee, or agency within the executive or legislative department of the state, which is under the direction of one or more elected or appointed members

V.T.C.S. art. 6252-17. In Attorney General Opinion H-772 (1976), this office stated that a public body must meet five prerequisites before it is considered a "governmental body" subject to the provisions of the act. These requirements are:

- (1) The body must be an entity within the executive or legislative department of the state;
- (2) The entity must be under the control of one or more elected or appointed members;

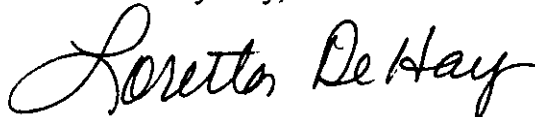
- (3) The meeting must involve formal action or deliberation between a quorum of members ;
- (4) The discussion or action must involve public business or public policy;
- (5) The entity must have supervision or control over that public business or policy.

Attorney General Opinion H-772 at 2. We believe that the committee meets the first four of the these requirements. *See id.* at 4-6 (finding that athletic council of Texas Tech University meets first four criteria but does not have control over the public business it discusses in its meetings). However, the facts submitted to us indicate that the committee is purely advisory and as such does not have supervision or control over the public business it conducts because it must submit its recommendations for funding for final approval by the Board of Regents. Consequently, we conclude that the committee is not a governmental body subject to the Texas Open Meetings Act. *See City of Austin v. Evans*, 794 S.W.2d 78 (Tex. App.--Austin 1990, writ denied) (holding city grievance committee not subject to the act because it did not have power to make binding, enforceable decisions, but only recommendations); Attorney General Opinions JM-331 (1985); H-994 (1977). We note, however, if the representations we have relied on are inaccurate, and the committee function in more than an advisory capacity such that it does have supervision or control over the public business it conducts, the committee may be subject to penalties for failure to comply with the act. Attorney General Opinions JM-331 at 3; H-772 at 6. Because we conclude that the committee is not subject to the provisions of the act, we do not address your second question regarding actions taken by the committee in a closed meeting.

S U M M A R Y

The Student Service Fee Advisory Committee of Sam Houston State University is not subject to the Open Meetings Act because it does not have supervision or control over the public business it conducts; the committee merely submits recommendations for final approval by the Board of Regents.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Opinion Committee